

FPPC REGULATION AND PROJECT CALENDAR SEPTEMBER 2004 REVISION

I. PROPOSITION 34 RETROSPECTIVE – PROPOSED REGULATORY REFINEMENTS.

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. § 85310: Communications Identifying State Candidates – Issue Advertisements: Does section 85310 operate to effect a \$25,000 limit on expenditures by a candidate's own ballot measure committee for advertisements which feature the candidate?	Issue Memo	IP Meeting		PN		Adopt	ADOPTED REG. 18531.10					
2. § 85316, Regulation 18531.6: Post Election Fundraising: Does the Commission wish to reconsider reg 18531.6, which allows officeholders with pre- Prop 34 committees to raise funds into those old committees in excess of Prop 34 limits?	ER Adopt			Perm Adopt			AMENDED REG 18531.6 & ADOPTED REG. 18531.61					

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>3. Termination of Committees: Regs 18404-18404.1: Should committees be permitted to reopen after termination? What rules apply to withdrawn candidates?</p>			IP Meeting	Pre-Notice		Adopt	AMENDED REG. 18404.1					
<p>4. Recall Elections: Should candidates running in a state election be able to control ballot measure committees without limits? Reg 18531.5 provides that a state candidate controlling a recall committee is not subject to contribution limits. This raised many questions during the recent state recall election. One principal issue is whether this rationale applies to candidates who control ballot measure committees generally. The staff would explore this in light of constitutional implications and may recommend amendment of regulation 18531.5 or a new regulation addressing this and related issues.</p>				Pre Notice		2 nd PN or Adopt	AMENDED REG. 18531.5 ADOPTED REG. 18530.9					

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
5. § 85307 - Extensions of Credit: Formerly Proposed Reg 18530.7; Reg 18530.8: Personal Loans: Should the Commission reconsider adoption of a regulation addressing extensions of credit? Should the Commission define what "terms available to the public" means?						IP Meeting		Pre-Notice		Adopt		
6. Affiliated Entities (18428): Discusses reporting by "affiliated entities." May be further amended to clarify application of the aggregation provisions to local candidates and committees, add a definition of "affiliated entities" or codify other advice in the area.												

DEFERRED UNTIL 2005

II. OTHER CAMPAIGN PROJECTS.

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Reporting and Recordkeeping for Electronic Payments. The statutes and regulations governing the reporting of contributions and expenditures are silent regarding payments that are made by electronic means. Enforcement proposes amending regs 18401 and 18421.1 by codifying the rules regarding the reporting and recordkeeping requirements of electronic payments.						Pre-Notice		Adopt				
2. Treasurer Duty: Reasonable Diligence. Reg. 18427(a) provides that a committee treasurer has a duty to use all reasonable diligence in the preparation of campaign statements. However, the reg. lacks any corresponding duty concerning the filing of the statements. Enforcement staff proposes that Reg. 18427(a) be amended to add the words "and filing" after the word "preparation" in that subdivision.												

**AMENDED REGS
18401 & 18421.1**

DEFERRED UNTIL 2005

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
3. Aggregation under § 84308: § 84308 disqualifies any “officer” of a public agency, who is running or has run for elective office, from participating in decisions affecting his or her campaign contributors. The statute provides that when a closed corporation is a party (or participant), the majority shareholder of the corporation is also a party (or participant). This project considers whether further clarification of this aggregation rule is necessary.												
DEFERRED UNTIL 2005												

III. CONFLICT OF INTEREST, LOBBYING AND OTHER

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
<p>1. General Plan Cluster. This project now includes the following subprojects:</p> <p>(a) Public Generally: Staff will explore modification of the general rule and the development of a stand-alone regulation pertaining solely to General Plan decisions.</p> <p>(b) Direct/ Indirect: Staff will also examine how general plan issues can be addressed at Step Four (Assessment of Direct/Indirect Involvement) and Step Five (Identification of the Materiality Standard) of the conflict-of-interest analysis.</p> <p>(c) Foreseeability: Consideration of clarification of the “reasonably foreseeable” standard to deal with problems associated with general plan decisions.</p>	IP Meeting		Pre-Notice		Adopt		AMENDED REG. 18707.1					
	IP Meeting		Pre-Notice		2 nd Pre-Notice			Adopt	AMENDED REG. 18704.2			
	IP Meeting		Pre-Notice				COMMISSION DECIDED NOT TO ACT					

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<p>(d) Reasonable Diligence: What is the “standard of care” required of a public official deciding whether he or she has a conflict of interest? To what extent, if any, should making that reasonable effort (or complying with that standard of care) shield the public official from after-the-fact second-guessing or prosecution?</p> <p>(e) Conforming Changes to 18700: Including adding segmentation, specifically addressing burden of proof/production issues, and related changes resulting from other substantive amendments made to the regulations.</p>			IP Meeting		Pre-Notice			Adopt	<div>COMMISSION DECIDED NOT TO ACT</div>			
								IP Meeting (If Needed)		Pre-Notice		Adopt

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<p>2. Gift Tickets Cluster. Two issues have arisen concerning the value of gifts for disclosure and disqualification provisions of the Act and the gift limit: -----</p> <p>(a) Invitation-Only Events: Advice was provided concerning an invitation-only party hosted by a private entity. The sponsor sent various officials free admission tickets that had no stated purchase price. Historically, the valuation of these passes has been a pro rata share of the total cost. This proposal would codify the valuation rule for these situations, including specifying which tangible and intangible benefits must be included (such as entertainment).</p>					IP Meeting					Pre-Notice		Adopt

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(b) Fundraising Events for a 501(c)(3): Reg. 18946.4(b) provides that a ticket or other admission privilege to a 501(c)(3)'s fundraising event has no value. Enforcement proposes that the Commission revisit reg. 18946.4 and consider amending it to narrow the exception for 501(c)(3) fundraising events to exclude tickets to events that are being commercially marketed, such as Rose Bowl tickets, and to set the value of this subset of fundraising tickets to the face of the tickets.					IP Meeting					Pre-Notice		Adopt
3. Govt. Code § 1090 Merger Project. The Commission previously decided to solicit public input in a study of the possible merger of conflict-of-interest laws that are not currently in the Act into the framework of the Act. Under consideration for merger are §§ 1090 et seq, Public Contracts Code §§ 10410 et seq., and the common law doctrine against conflicts of interests.	IP Meeting	Status Report		1090 IP Meeting		Public Contract Code and Other Laws IP Meeting		IP re: Enforcement Issues		Policy Discuss		Decide Draft Language

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<p>4. Reg. 18703.1: Reg. 18703.1 defines an “economic interest” in a business entity. It provides that otherwise related business entities do not have to be reported. This sweeping statement can be read to swallow up the statutory requirement in section 87207(b) which requires disclosure of the pro-rata share of investments held by a business entity in which the official has a 10 percent or greater investment interest (even subsidiaries). A clarifying amendment may be necessary.</p>		Adopt			<p>AMENDED REGS. 18703.1, 18703.2, 18703.3, 18703.4, AND 18703.5.</p>							

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5. § 87202 and § 87204: Assuming and Leaving Office Statements. Staff is recommending that the Commission adopt a regulation clarifying when an official has assumed or left office triggering the filing of statements of economic interest. Currently, Commission advice for statements of economic interests may be different than the interpretation used in the revolving door context. Staff is also asking the Commission to consider a regulation clarifying filing requirements for alternates and designees.					DEFERRED UNTIL 2005							

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6. Reg. 18616: The Act requires reporting of payments for or in connection with soliciting or urging other persons to lobby elective state officials, legislative officials, or agency officials (i.e., “grassroots lobbying”). This amendment will clarify that payments for or in connection with such lobbying of the PUC are not exempt from disclosure.		Pre-Notice		Adopt			Amended Reg. 18616					
7. Guidelines and procedures for filing officers/officials. Guidelines to be considered include: (a) Initial notification requirements (time lines); (b) Required contacts or attempted contacts with each non-filer, and documentation requirements for those contacts; and (c) Authority to hold filing officers/officials accountable for failing to comply with notification requirements.												Update

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8. Amendment to Regulation 18901: § 89001 prohibits certain publicly funded mass mailings. Senator Ross Johnson has asked that the Commission expand the prohibition to prohibit “puff” pieces that favor an incumbent.						IP Meet						

IV. ADMINISTRATIVE, ENFORCEMENT, AND OTHER ISSUES

V. OTHER MISCELLANEOUS ITEMS

	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1. Annual Technical Clean-up (including AB 1678 § 87407 and reg. 18361). The Commission considers annually changes to Commission regulations that resulted from the staff’s review for technical and other minor changes.									Adopt			

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2. Quarterly review of work plan and plan updates, including Proposition 34.			Work Plan Revision			Work Plan Revision			Work Plan Revision	2005 Reg. Calendar		2005 Reg. Calendar
3. Gift, Contribution, and Expenditure Limit Adjustments. New contribution and expenditure limits, and the gift limit of the Act took effect January 1, 2003 and will remain unchanged until December 31, 2004. Thus, the Commission will need to adjust these limits in 2004, effective January 1, 2005.												Adopt